

## Message Text

LIMITED OFFICIAL USE

PAGE 01 NEW DE 12878 241958Z  
ACTION NEA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10  
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11  
SAA-01 /065 W  
-----098948 250656Z /13

R 241119Z AUG 78  
FM AMEMBASSY NEW DELHI  
TO SECSTATE WASHDC 3587  
INFO AMCONSUL BOMBAY  
AMCONSUL CALCUTTA  
AMEMBASSY COLOMBO  
AMEMBASSY DACCA  
AMEMBASSY ISLAMABAD  
AMEMBASSY KABUL  
AMEMBASSY KATHMANDU  
AMCONSUL MADRAS  
CINCPAC

LIMITED OFFICIAL USE NEW DELHI 12878

CINCPAC FOR POLAD

E.O. 11652: N/A  
TAGS: PINT, IN  
SUBJECT: LOK SABHA PASSES CONSTITUTION AMENDMENT BILL

REF: NEW DELHI A-155 (NOTAL)

1. AFTER SEVERAL DAYS OF DEBATE, PARLIAMENT'S LOWER HOUSE, THE LOK SABHA, PASSED THE 45TH CONSTITUTION AMENDMENT BILL ON AUGUST 23. DESPITE CRITICISM OF CERTAIN PROVISIONS, ALL OPPOSITION PARTIES ULTIMATELY SUPPORTED THE BILL AND THE FINAL VOTE WAS 355 TO ZERO. THE BILL, WHICH HAS BEEN RENUMBERED TO BECOME THE 44TH AMENDMENT TO THE CONSTITUTION, EMERGED FROM THE LOK SABHA ESSENTIALLY UNCHANGED FROM THE FORM IN  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 NEW DE 12878 241958Z

WHICH IT WAS FIRST SUBMITTED TO PARLIAMENT IN MAY (SEE REF-AIR). IT SEEKS TO CORRECT MANY OF THE "DISTORTIONS" WHICH WERE INTRODUCED INTO THE CONSTITUTION BY SEVERAL AMENDMENTS (NOTABLY THE 42ND AMENDMENT) DURING MRS. GANDHI'S EMERGENCY RULE. (AN EARLIER AMENDMENT, PASSED LAST DECEMBER, HAD REMOVED SEVERAL OF THE MOST NOTABLE "DISTORTIONS" FROM THE EMERGENCY DAYS. SEE NEW DELHI A-5 OF JANUARY 12, 1978.) THE

44TH AMENDMENT SEEKS PRIMARILY TO ACHIEVE TWO ENDS: TO RE-ESTABLISH THE AUTHORITY OF THE COURTS AND TO LIMIT THE HERETOFORE UNASSAILABLE CONCENTRATION OF POWER AT THE CENTER PRODUCED BY A PROCLAMATION OF EMERGENCY. THE AMENDMENT RESTRICTS THE PRESIDENT'S POWER TO DECLARE AN INTERNAL EMERGENCY TO A SITUATION IN WHICH THERE IS A THREAT OF "ARMED REBELLION" AND NOT MERELY A THREAT OF "INTERNAL DISTURBANCE", AS THE CONSTITUTION NOW READS.

2. ANOTHER MAJOR PROVISION OF THE AMENDMENT RESTORES THE FIVE-YEAR TERMS OF THE LOK SABHA AND THE STATE ASSEMBLIES, MEANING THAT THE NEXT LOK SABHA ELECTIONS MUST BE HELD BY MARCH 1982. (THE 42ND AMENDMENT HAD RAISED THE TERMS TO SIX YEARS.) IN ADDITION, THE AMENDMENT REMOVES THE CENTRAL GOVERNMENT'S AUTHORITY TO DEPLOY ARMED FORCES IN A STATE WITHOUT THE CONSENT OF THE STATE GOVERNMENT.

3. HOWEVER, WHILE UNDOING THE BULK OF MRS. GANDHI'S CONSTITUTIONAL CHANGES, THE JANATA EVIDENTLY DECIDED TO RETAIN A FEW OF THEM. THUS, FOR INSTANCE, THE PRESIDENT IS STILL BOUND TO ACT UPON THE ADVICE OF THE COUNCIL OF MINISTERS, A CHANGE INTRODUCED BY THE 42ND AMENDMENT TO ASSERT THE SUPREMACY OF THE CABINET AND OF THE PRIME MINISTER.

4. JANATA AND OPPOSITION PARTY CRITICS OF THE AMENDMENT BILL IN THE LOK SABHA FOCUSED ON TWO POINTS DURING THE DEBATE: LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 NEW DE 12878 241958Z

MANY OBJECTED TO THE NEW PROVISION IN THE BILL WHICH REQUIRES THAT A NATIONAL REFERENDUM BE HELD IN ORDER TO APPROVE ANY FUTURE AMENDMENT WHICH WOULD CHANGE THE "BASIC STRUCTURE" OF THE CONSTITUTION. SECONDLY, MANY CIVIL LIBERTARIANS IN THE JANATA CRITICISED THE FACT THAT THE BILL LEAVES IN PLACE THE PROVISION (WRITTEN INTO THE ORIGINAL CONSTITUTION IN 1950) WHICH PERMITS THE GOVERNMENT TO ENACT LAWS FOR PREVENTIVE DETENTION. CIVIL RIGHTS ADVOCATES SUCH AS RAM JETHMALANI (WHO WAS GRANTED POLITICAL ASYLUM IN THE U.S. DURING THE EMERGENCY) ARGUED THAT EVEN THE POWER OF THE GOI TO ADOPT PREVENTIVE DETENTION LAWS SHOULD BE SCRAPPED. (IT SHOULD BE NOTED THAT THE MAINTENANCE OF INTERNAL SECURITY ACT, MISA, WAS REPEALED BY PARLIAMENT IN JULY.)

5. THE 44TH AMENDMENT NOW GOES TO THE RAJYA SABHA, WHERE THE JANATA IS IN A MINORITY POSITION. THE FINAL VOTE IN THE LOK SABHA WOULD SUGGEST THAT THE OPPOSITION PARTIES WILL ALSO SUPPORT THE BILL IN THE UPPER HOUSE. HOWEVER, THE ISSUES OF KANTIBHAI DESAI AND "CORRUPTION IN HIGH PLACES" MAY BE A HITCH: THE LEADER OF THE CONGRESS (I) PARLIAMENTARY PARTY ON AUGUST 23 SERVED NOTICE THAT CONGRESS (I) MP'S WILL BLOCK THE CONDUCT OF ALL BUSINESS IN THE RAJYA SABHA, INCLUDING

DEBATE ON THE AMENDMENT BILL, UNTIL THE GOVERNMENT AGREES TO  
THE APPOINTMENT OF A 15-MEMBER COMMITTEE OF THE HOUSE TO IN-  
VESTIGATE CHARGES OF CORRUPTION CONCERNING THE FAMILIES OF  
MORARJI DESAI AND CHARAN SINGH.  
GOHEEN

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LEGISLATIVE BILLS, CONSTITUTIONAL AMENDMENTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 24 aug 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1978NEWDE12878  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D780348-0215  
**Format:** TEL  
**From:** NEW DELHI  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1978/newtext/t19780828/aaaaaxfd.tel  
**Line Count:** 121  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** 280aa45c-c288-dd11-92da-001cc4696bcc  
**Office:** ACTION NEA  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 78 NEW DELHI A-155  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 05 may 2005  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** N/A  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 1633902  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** LOK SABHA PASSES CONSTITUTION AMENDMENT BILL  
**TAGS:** PINT, IN  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odb://SAS/SAS.dbo.SAS\_Docs/280aa45c-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014